

**2:21-bk-18205-DS Crestlloyd, LLC**

**CERTIFICATE OF SERVICE**

I, the below-named deputy clerk of the United States Bankruptcy Court, certify that I placed a true and correct copy of the attached document in a sealed envelope for collection and mailing no later than the next business day that is not a court-observed holiday, in the United States mail, first class, postage prepaid, and addressed as follows:

**Edward Roark Schwagerl**  
**525 Main Street**  
**P.O. Box 120353**  
**Saint Paul, MN 55112**

**Edward Roark Schwagerl**  
**P.O. Box 120353**  
**Saint Paul, MN 55112**

☐ Service information continued on attached page

Date: 7/18/2023

Signature: /s/ Mary Bakchellian

Deputy Clerk : Mary Bakchellian

FILED & ENTERED

JUL 18 2023

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY bakchell DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION

In re:

CRESTLLOYD, LLC,

Debtor.

Case No. 2:21-bk-18205-DS

Chapter 11

**ORDER REGARDING PURPORTEDLY  
CONFIDENTIAL DOCUMENTS  
SUBMITTED TO THE COURT BY  
EDWARD ROARK SCHWAGERL**

The court has recently received four documents from Edward Roark Schwagerl, who has claimed to be an “interested party” in this case. The first is a seven-page document received on or about June 27, 2023 (“the June 27 Document”). The June 27 Document has a handwritten note saying “Courtesy Copy redacted sent to Debtor” and the date June 26, 2023 on the first page of a letter addressed to counsel for debtor Crestlloyd, LLC (the “Debtor”). Following the two-page letter are two heavily redacted pages including tables. The fifth and sixth pages are what appear to be the same letter that is on the first two pages with a handwritten “unredacted pending seal” and a different signature by Mr. Schwagerl. The seventh page appears to be the same as the third page without redactions. The court did not receive an unredacted page that appears to correspond to the fourth page.

1 On or about July 12, 2023, the court received two more documents from Mr.  
2 Schwagerl. The first of these documents is a five-page document beginning with a one-  
3 page "Certificate of Service" followed by what appears to be a copy of the first four pages  
4 of the June 27 Document with a different signature and handwritten marks (the "July 12  
5 Certificate"). The second document (the "July 12 Plan and Motion"), which is 21 pages  
6 long, includes as the first six pages a document titled "A High Prerogative Writ of Mandate"  
7 and "Settlement Plan." The next two pages are titled "Deposit Slip 1" and "Deposit Slip 2."  
8 The ninth page is an IRS Form 8888 completed with what appears to be a social security  
9 number, a routing number, and an account number. The tenth page is titled "Notice and  
10 Motion for Confirmation of Plan" with a handwritten note "Redacted Clerk's Copy," and the  
11 eleventh and twelfth pages are a document titled "Motion for Confirmation of Plan." The  
12 "Motion for Confirmation of Plan" indicates that a "Redacted Plan" and "Certificate of  
13 Service" are enclosed. The next eight pages appear to the court to be the same as the  
14 first eight pages, though they are so heavily redacted as to be unidentifiable and the court  
15 can only speculate as to whether they are, in fact, the same. The last page is a "Certificate  
16 of Service."

17 On or about July 13, 2023, the court received a fourth document from Mr.  
18 Schwagerl. This twelve-page document appears to be comprised of the same documents  
19 as pages 10-21 of the July 12 Plan and Motion, though it was evidently re-signed by Mr.  
20 Schwagerl on the first and third pages (the July 13 Plan and Motion).

21 There are numerous references in these documents to "sealed" documents,  
22 "pending seal," and requests to seal documents including:

- 23 • June 27 Document, page 1, referring to a "SEALED and redacted Schedule  
24 of Disbursements";
- 25 • June 27 Document, page 5, bearing a handwritten note "unredacted pending  
26 seal";
- 27 • July 12 Plan and Motion, pages 1-6, and 13-18 and July 13 Plan and Motion,  
28 pages 4-9 with a footer saying "Confidential, Private, Under Seal";

- 1 • July 12 Plan and Motion, page 2, where Mr. Schwagerl “orders and  
2 commands” “[t]hat the Case be Sealed to protect the trade secret,  
3 confidential, private & proprietary intellectual property, methods and modes  
4 belonging to Roark....”;
- 5 • July 12 Plan and Motion, page 10, and July 13 Plan and Motion, page 1,  
6 saying that Mr. Schwagerl “files an unredacted copy under seal with the court  
7 at Chambers pursuant to rule 9037”; and
- 8 • July 12 Plan and Motion, page 11 and July 13 Plan and Motion, page 2,  
9 referring to a “redacted version filed with the clerk’s office here, and an  
10 unredacted version filed under seal with the court at Judge’s chamber” as to  
11 a “Plan,” and also asserting that “the Plan is special, private, proprietary,  
12 personal and trade secret therefore this Plan is subject to the above  
13 referenced rules of redaction shown here and filed under seal with the court  
14 at Chambers accordingly.”

15 However, the court has not ordered any documents submitted by Mr. Schwagerl to be filed  
16 under seal, and there is no pending motion for filing under seal.

17 Mr. Schwagerl previously filed a document (the “In Camera Review Motion,” Docket  
18 No. 487) referring to “confidential, proprietary, trade secret and personal documents” which  
19 Mr. Schwagerl asserted were related to a “Motion for Order of Confirmation of Sale”  
20 (Docket No. 133). A hearing was held on the In Camera Review Motion on June 22, 2023.  
21 Mr. Schwagerl was present at the hearing on the In Camera Review Motion. In light of the  
22 liberal construction and less stringent standards applicable to *pro se* filings, despite the  
23 lack of identification of any confidential materials or explanation of why such materials  
24 were relevant to a matter before the court, the court interpreted the In Camera Review  
25 Motion as a motion for the court to review purportedly confidential materials.

26 At the hearing on the In Camera Review Motion, the court explained to Mr.  
27 Schwagerl that no cause had been shown for *in camera* review of any materials, in  
28 particular because the court had not been presented with any information based upon

1 which it could conclude that any materials Mr. Schwagerl sought to present were, in fact,  
2 confidential or determine what injury might be suffered by disclosure. Again liberally  
3 construing the In Camera Review Motion as a *pro se* filing, the court explained at the  
4 hearing that it alternatively considered the motion as seeking leave to file under seal.  
5 However, the In Camera Review Motion also failed, among other things, to overcome the  
6 strong presumption in favor of public access to court filings. At the hearing, the court  
7 explained the applicable standard and rules in detail. The court acknowledged that new  
8 documents from Mr. Schwagerl might be forthcoming, but noted that it had no information  
9 about such documents which would support a request for *in camera* review or for filing  
10 under seal. The court entered an order denying the In Camera Review Motion on June 22,  
11 2023 (Docket No. 494).

12 The court has reviewed the June 27 Document, the July 12 Certificate, the July 12  
13 Plan and Motion, and the July 13 Plan and Motion, as with previous filings by Mr.  
14 Schwagerl, in light of the liberal construction and less stringent standards to be applied to  
15 filings by a *pro se* party. Despite the complete failure by Mr. Schwagerl to comply with  
16 rules applicable to a motion to file under seal, out of an abundance of caution and in light  
17 of the numerous references to documents being sealed and/or filed or served on parties in  
18 redacted form, the court will address whether it appears from the record and these  
19 documents that any of these documents should be filed under seal.

20 “It is clear that the courts of this country recognize a general right to inspect and  
21 copy public records and documents, including judicial records and documents.” *Nixon v.*  
22 *Warner Commc'ns, Inc.*, 435 U.S. 589, (1978). The courts “start with a strong  
23 presumption in favor of access to court records.” *Foltz v. State Farm Mut. Auto. Ins. Co.*,  
24 331 F.3d 1122, 1135 (9th Cir. 2003). The presumption of access is “based on the need for  
25 federal courts, although independent—indeed, particularly because they are  
26 independent—to have a measure of accountability and for the public to have confidence in  
27 the administration of justice.” *United States v. Amodeo*, 71 F.3d 1044, 1048 (2d Cir.  
28 1995); see also *Valley Broad. Co. v. U.S. Dist. Court—D. Nev.*, 798 F.2d 1289, 1294 (9th

1 Cir. 1986) (explaining that the presumption of public access “promot[es] the public’s  
2 understanding of the judicial process and of significant public events”).

3 “A party seeking to seal a judicial record then bears the burden of overcoming this  
4 strong presumption by meeting the ‘compelling reasons’ standard.” *Kamakana v. City and*  
5 *Co. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). “Under this stringent standard, a  
6 court may seal records only when it finds ‘a compelling reason and articulate[s] the factual  
7 basis for its ruling, without relying on hypothesis or conjecture.’” *Center for Auto Safety v.*  
8 *Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016) (quoting *Kamanaka*, 447 F.3d  
9 at 1179). The fact that dissemination of materials “may lead to a litigant’s embarrassment,  
10 incrimination, or exposure to further litigation will not, without more, compel the court to  
11 seal its records.” *Kamanaka*, 447 F.3d at 1179 (citing *Foltz*, 331 F.3d at 1136). As § 107  
12 of the Bankruptcy Code states, court filings are public records. 11 U.S.C. § 107(a). The  
13 case law interpreting requests to seal court filings is clear that a court must not restrict  
14 public access to a filing without a specific showing that specific information should be  
15 excluded from the public record.

16 The only content of the documents purportedly providing a basis for protection of  
17 information therein is on a page titled “Notice of and Motion for Confirmation of Plan” (July  
18 12 Plan and Motion, p. 10 and July 13 Plan and Motion, p. 1). That document states that  
19 Mr. Schwagerl “files his confirmation of plan redacted with the court, and files an  
20 unredacted copy under seal with the court at Chambers pursuant to rule 9037,” and  
21 includes what seems to be some kind of summary of Rule 9037 of the Federal Rules of  
22 Bankruptcy Procedure (“Rule 9037”).

23 Rule 9037 sets forth certain privacy protections for the following specific categories  
24 of personally identifying information (“PII”): (1) an individual’s social security number; (2)  
25 an individual’s taxpayer identification number; (3) an individual’s birth date; (4) the name of  
26 an individual, other than the debtor, known to be and identified as a minor; and (5) a  
27 financial account number. Fed. R. Bankr. P. 9037(a). Rule 9037 provides that such PII

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1 must be redacted from filings, subject to certain exceptions and pursuant to further  
2 procedures set forth in the rule.

3 Based on the court's review, only two pages among the four documents recently  
4 received and claimed to be confidential or "sealed" include what appears to be PII within  
5 the scope of Rule 9037. An IRS Form 8888 is included as page 9 of the July 12 Plan and  
6 Motion. It contains what appear to be a social security number and a financial account  
7 number. Additionally, paragraph 12 of the "Settlement Plan" on page 3 of the July 12 Plan  
8 and Motion includes the same financial account number. While Rule 9037(a) directs a  
9 party to redact PII from filings pursuant to the terms of the rule, the court has not found,  
10 among the pages of these documents with redactions, anything that appears to be a  
11 redacted form the IRS Form 8888. And the page the court suspects may be a redacted  
12 version of page 3 of the July 12 Plan and Motion (page 15 of that document) has *all* of the  
13 content redacted, not just a portion of the account number as required by Rule 9037(a).

14 In order to protect what appears to be Mr. Schwagerl's personally identifying  
15 information on these two pages, the court will consider the submission of these two pages  
16 as unredacted filings under seal pursuant to Rule 9037(c). Mr. Schwagerl will not be  
17 excused, however, from the requirement of Rule 9037(a) that he file versions of those two  
18 pages with *only* portions of the social security number and the financial account number  
19 redacted so that no more than the last four digits of each is visible.

20 With respect to the remainder of the June 27 Document, the July 12 Certificate, the  
21 July 12 Plan and Motion, and the July 13 Plan and Motion, the court sees no basis to  
22 exclude these documents from the public record. Mr. Schwagerl has not filed a motion to  
23 file under seal, has not identified purportedly confidential information in the documents,  
24 and has not explained why any purportedly confidential information in the documents is  
25 relevant to a matter before the court. He certainly has not satisfied the stringent standard  
26 applicable to restrict public access to court records. In its own review of the documents,  
27 the court has not found information that compels the court to seal the documents.

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1 For these reasons,

2 IT IS HEREBY ORDERED that the court will file the June 27 Document, the July 12  
3 Certificate, and the July 13 Plan and Motion on the court's public docket in their entirety.

4 IT IS FURTHER ORDERED that the court will file all but pages 3 and 15 of the July  
5 12 Plan and Motion on the court's public docket.

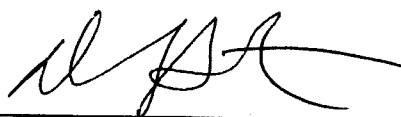
6 IT IS FURTHER ORDERED that pages 3 and 15 of the July 12 Plan and Motion will  
7 be filed under seal.

8 IT IS FURTHER ORDERED that, within 14 days of entry of this order, Mr.  
9 Schwagerl must submit to the court for filing on the public docket versions of pages 3 and  
10 15 of the July 12 Plan and Motion with redaction of only the information protected under  
11 FRBP 9037(a).

12 IT IS FURTHER ORDERED that, to the extent any of the June 27 Document, the  
13 July 12 Certificate, the July 12 Plan and Motion, and the July 13 Plan and Motion include a  
14 motion with respect to a proposed plan of reorganization, they will be addressed by a  
15 separate order.

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24 Date: July 18, 2023

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Deborah J. Saltzman  
United States Bankruptcy Judge  
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